

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HAROLD GRAYSON,)	
)	
Plaintiff,)	
)	Case No. 1:18-cv-781
v.)	
)	Honorable Robert J. Jonker
DALE OWEN,)	
)	
Defendant.)	
)	

REPORT AND RECOMMENDATION

This is a civil action brought *pro se* by Harold Grayson. Plaintiff filed his complaint on July 16, 2018, and it was not subject to initial screening because plaintiff paid the filing fee rather than seeking leave to proceed *in forma pauperis*. The only named defendant is Dr. Dale Owen, a psychiatrist in Bellaire, Michigan. Dr. Owen has never been served with process or otherwise appeared during the more than six months this case has been pending. Upon review, I recommend that plaintiff's complaint be dismissed for lack of subject matter jurisdiction.

“Federal courts are courts of limited jurisdiction and the law ‘presume[s] that a cause lies outside this limited jurisdiction.’ ” *Vander Boegh v. EnergySolutions, Inc.*, 772 F.3d 1056, 1064 (6th Cir. 2014) (quoting *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). “[T]he burden of establishing the contrary rests upon the party asserting jurisdiction.” *Vander Boegh*, 772 F.3d at 1064. “‘Subject-matter jurisdiction can never be waived or forfeited,’ and courts are obligated to

consider *sua sponte* whether they have such jurisdiction.” *Id.* (quoting *Gonzalez v. Thaler*, 565 U.S. 134, 141 (2012)); see *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006) (Federal courts “have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.”).

“Congress has articulated two circumstances under which a federal court may exercise jurisdiction over a claim: (1) in civil actions between citizens of different states where the amount in controversy exceeds \$ 75,000, called diversity jurisdiction; and (2) in civil actions ‘arising under the Constitution, laws, or treaties of the United States,’ referred to as federal question jurisdiction.” *Funderwhite v. Local 55, United Ass’n*, 702 F. App’x 308, 311 (6th Cir. 2017) (quoting 28 U.S.C. § 1331).

Plaintiff provides Michigan addresses for himself and Dr. Owen. Plaintiff states that he “would like to start a malpractice suit[.]” (Compl., 1-2, ECF No. 1, PageID.1-2). Plaintiff has not alleged facts raising any federal question or establishing a foundation for the Court’s exercise of diversity jurisdiction.

Recommended Disposition

Accordingly, I recommend the plaintiff's complaint (ECF No. 1) be dismissed for lack of subject matter jurisdiction.

Dated: January 29, 2019

/s/ Phillip J. Green

PHILLIP J. GREEN
United States Magistrate Judge

NOTICE TO PARTIES

ANY OBJECTIONS to this Report and Recommendation must be filed and served within fourteen days of service of this notice on you. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). All objections and responses to objections are governed by W.D. MICH. LCIVR 72.3(b). Failure to file timely and specific objections may constitute a waiver of any further right of appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *Keeling v. Warden, Lebanon Corr. Inst.*, 673 F.3d 452, 458 (6th Cir. 2012); *United States v. Branch*, 537 F.3d 582, 587 (6th Cir. 2008). General objections do not suffice. *See McClanahan v. Comm'r of Social Security*, 474 F.3d 830, 837 (6th Cir. 2006); *Frontier Ins. Co. v. Blaty*, 454 F.3d 590, 596-97 (6th Cir. 2006).